

Message Text

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FM USMISSION EC BRUSSELS
TO SECSTATE WASHDC PRIORITY 8886

LIMITED OFFICIAL USE SECTION 1 OF 2 EC BRUSSELS 4419

E.O. 11652: NA
TAGS: ETRD, EEC, EAGR
SUBJECT: EC WINE LABELLING REGULATION

REF: A) STATE 110680
B) EC BRUSSELS 4316

1. SUMMARY: THE MISSION BELIEVES THAT THE APPROACH TAKEN IN THE NOTE PROPOSED IN REF A IS NOT WELL DESIGNED TO SERVE THE AIM OF PRESERVING ACCESS FOR US WINES INTO THE EC. A FRONTAL ATTACK ON THE EC'S WINE LABELLING REGULATIONS IS LIKELY TO PRODUCE ONLY FRUSTRATION AND CREATE THE CONDITIONS FOR A "WINE WAR". WE SUGGEST INSTEAD AN APPROACH INVOLVING (A) EMPHASIS ON POSTPONEMENT OF THE EFFECTIVE DATE OF THE REGULATION AS THEY PERTAIN TO US WINES; (B) AN ATTEMPT TO IDENTIFY THE REQUIREMENTS THAT THE US WINE INDUSTRY MIGHT BE ABLE TO MEET; AND (C) CONSULTATIONS WITH THE EC WITH A VIEW TO EXCEPTIONS FROM THOSE ELEMENTS OF THE REGULATION WHICH WE CANNOT LIVE WITH. END SUMMARY.

2. THE MISSION IS DELAYING THE REQUESTED DELIVERY OF THE NOTE IN REF A UNTIL WASHINGTON HAS AN OPPORTUNITY TO CONSIDER THE COMMENTS AND PROPOSALS IN
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THIS MESSAGE.

3. THE EC WINE LABELLING REGULATION (REG. 2133/74) OBVIOUSLY WOULD CREATE SERIOUS PROBLEMS FOR US SUPPLIERS. THE MISSION FEELS, HOWEVER, THAT DELIVER OF A NOTE SUCH AS THE ONE IN REF A WOULD ADD TO RATHER THAN ALLEVIATE HIS PROBLEM AND COULD RESULT IN SERIOUS CONFRONTATION WITHOUT ADVANCING US INTERESTS. OUR DIFFICULTIES WITH TNE NOTE ARE IN PART PRESENTATIONAL, AND IN PART SUBSTANTIVE.

A. PRESENTATION. IT SEEMS UNWISE TO BEGIN THE FORMAL DIALOGUE ON THIS ISSUE WITH A LENGHTY AND EXTREMELY FORCEFULLY STATED NOTE. THE TIME DOES NOT SEEM RIPE TO SUGGEST RETAILATION, AS IN PARS 2 AND 3 OF REF A. NOR DOES USE OF WORDS AND PHRASES SUCH AS "DISCRMINIATORY" (PARAS 2,4,8,15), "ARBITRARY SYSTEM" (PARA 5), "INORDNATE POWER" (PARA 8), "THROTTLING OF TRADE" (PARA 13) SEEM LIKELY TO PROMOTE A RESPONSIBE ATTITUDE ON THE PART OF THE COMMUNITY. THIS IS PARTICULARLY TRUE WHEN, AS IN THE CASE OF "DISCRIMINATORY," THE ACCURACY OF THE TERM CAN BE CHALLENGED. (SOME ELEMENTS OF THE REGULATION, SUCH AS THE LABELLING REQUIRMENTS FOR NON-APPELLATION WINES, MAY BE DISCRIMINATORY. MOST APPEAR NOT TO BE, UNLESS THE ASSUMPTION IS MADE, AS IN PARS 7,9, AND 10 OF REF A, THAT MEMBER STATES WILL NOT EXERCISE THE DISCRETION THEY HAVE TO ACCORD THE SAME DEROGATIONS TO THE US AS TO FELLOW MEMBER STATES.) A MEASURE CAN, LIKE THIS REGULATION, BE A POTENTIALLY SIGNIFICANT NON-TARIFF BARRIER WITHOUT HAVING A DISCRIMINATORY INTENT,OR UCH DISCRQDMINATORY EFFECT. IT ALSO WOULD BE DESIRABLE TO LIMIT AN APOACH ON THE LABELLING REGULATION TO THE ABUNDANT PROBLEMS GIVEN BY IT, AND TO AVOID CONFUSING THE ISSUE BY DISCUSSING THE CERTIFICATION REQUIREMENT, AS IN PARA 3 OF REF A. FINALLY, WHERE THRE IS DOUBT, AS IN THE QUESTIONS OF MEMBER STATES' USE OF THEIR DISCRETION AND THE LACK OF FORMAL CONSULTATIVE MECHANISMS (PARA 4,5, AND 8) IT IS SURELY BETTER TO ATTEMPT TO CLARIFY THE MATTER (AND POSSIBLY SEEK GUARANTEES) THAN TO ASSUME THE WORST IN ADVANCE.

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B. SUBSTANCE. THE COMMUNITY IS WELL AWARE OF ITS STAKE IN THE US WINE MARKET AND APPRECIATES THE RISKS IT WOULD RUN IF IT SHUTS US WINE OUT OF THE EC MARKET. THE CHANCES OF THE EC MAKING MAJOR CHANGES IN ITS LABELLING REQUIREMENTS APPLICABLE TO WINES FROM ALL SOURCES ARE, HOWEVER, SMALL. WINE IS A HIGHLY-CHARGED POLITICAL ISSUE IN THE COMMUNITY--

WITNESS THE RECENT FRANCO-ITALIAN DISPUTE. THE
REGULATION IN QUESTION IS INTENDED TO AFFECT MAINLY
INTERNAL TRADE PLUS IMPORTS FROM THE EC'S LARGER
EXTERNAL SUPPLIERS (E.G. SPAIN, PORTUGAL, AND THE
MAGHREB). THE NINE WILL CONSIDER IT UNREASONABLE TO
EXPECT THE EC TO ADAPT THE WHOLE SYSTEM TO MEET
THE REQUIREMENTS OF THE US--A SMALL FACTOR IN THE
OVERALL EC WINE MARKET NO MATTER NOW IMPORTANT
WE CONSIDER OUR PRESENT TRADE OR POTENTIAL FOR THE

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TO SECSTATE WASHDC PRIORITY 8887

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FUTURE. WE BELIEVE THAT MAJOR SUPPLIERS TO THE EC
INTEND TO ADAPT TO THE REGULATION. THE MISSION OF
ONE MAJOR SUPPLIER, SPAIN, IN FACT WELCOMES THE EC
PROPOSAL AS A STEP TOWARDS INTERNATIONAL STANDARD-
IZATION CONSISTNT WITH THE MADRID AND LISBON AGREE-
MENTS ON APPLATIONS OF ORIGINS.THE POSITION TAKEN
IN REF A ON USE OF REGIONAL NAMES SUCH AS "CHAMPAGNE"
(WHICH IS NOT COVERED BY REF. 2133/74) AND "BURGANDY" IS AN
ISOLATED ONE, AND IT WOULD BE UNREALISTIC TO PURSUE THIS ARGUMENT.
WASHINGTON AGENCIES MAY WISH, IN THE CONNECTION, TO STUDY A
MAY 13 DECISION OF THE UK HIGH COURT, ENJOINING A
BRITISH CIDER FIRM FROM USIING THE WORD "CHAMPAGNE"
IN DESCRIBING ITS PRODUCTS DESPITE THE FACT THAT
THE FIRM HAS BEEN USING IT FOR A HUNDRED YEARS.

(WE WONDER, IN ANY CASE, WHETHER USE OF SUCH TERMS
WOULD ENHANCE THE MARKETABILITY OF US WINES IN
EUROPE.)

4. IN ORDER TO SEEK TO ENSURE CONTINUED ENTRY OF US WINES
INTO THE EC ANOTHER ROUTE SHOULD BE TAKEN. WE WOULD SUGGEST
AN APPROACH ALONG THE FOLLOWING LINES:

(A) WE WOULD TELL THE COMMISSION THAT THEIR NEW
REGULATIONS REPRESENT A CLASSIC NTB PROBLEM WHICH CAN HAVE
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SERIOUS ADVERSE AFFECTS ON OUR TRADE. WE ASSUME THAT EC
AGREES WITH THIS POINT AND HOPE THEY WILL JOIN US IN SEEKING
SOLUTIONS WHICH WILL ELIMINATE THE INCIDENTAL INTERNATIONAL
TRADE IMPACT.

(B) WE WOULD EXPLAIN THAT WORK IS UNDER WAY IN THE USG
REGARDING THE EC LABELLING REGULATION; THAT IT IS ALREADY CLEAR
THAT THE US WOULD HAVE DIFFICULTY MEETING ITS TERMS; AND
THAT WE THEREFORE REQUEST A POSTPONEMENT OF ITS APPLICABILITY
TO THE US IN ORDER TO GIVE US TIME JOINTLY TO WORK OUT
SATISFACTORY ARRANGEMENTS.

(C) AN EFFORT SHOULD BE MADE TO IDENTIFY THE ELEMENTS
OF THE REGULATION WE COULD MEET, THOSE REQUIRING FURTHER
CLARIFICATION AND/OR ASSURANCE, AND THOSE WHICH THE US
CANNOT MEET.

(D) ONCE THE PROCESS OF DETERMINING JUST WHAT US INTERESTS
REQUIRE HAS BEEN COMPLETED, THE US SHOULD SEEK, THROUGH
CONSULTATIONS WITH THE EC, ADJUSTMENTS TO DEAL WITH OUR
BED-ROCK DIFFICULTIES.

5. WE CAN, OF COURSE, GIVE NO ASSURANCES THAT THIS APPROACH
WILL BE 100 PERCENT SUCCESSFUL. BUT WE MAY BE ABLE TO DEAL
WITH SOME OF OUR PROBLEMS IN A COOPERATIVE WAY AND OUR
REPRESENTATIONS CAN, IF NECESSARY, BE ESCALATED AS THE
SITUATION REQUIRES. AN IMMEDIATE CONFRONTATION WILL, ON THE
OTHER HAND, LEAD FAIRLY PREDICTABLY DOWN THE ROAD TO
RETALIATION. WE WOULD MAKE CLEAR AT THE OUTSET THE
IMPORTANCE WE ATTACH TO THE RESOLUTION OF THE PROBLEM AND
THE NEED FOR SATISFACTORY COMPROMISE TO AVOID SERIOUS
DIFFICULTIES. GREENWALD

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